

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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CHORD ASSOCIATES LLC, JOPAL
ENTERPRISES LLC; and BARBARA M.
SAEPIA,

Plaintiffs,

-against-

PROTECH 2003-D, LLC, AMTAX HOLDINGS
520, LLC; PROTECH HOLDINGS 128, LLC;
CAPMARK AFFORDABLE EQUITY HOLDINGS
INC; CAPMARK FINANCE INC. (formerly known
as GMAC COMMERCIAL MORTGAGE
CORPORATION), its successors and assigns;
CAPMARK CAPITAL INC. (formerly known
as GMAC COMMERCIAL HOLDING
CORPORATION),

Defendants.

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AMTAX HOLDINGS 520, LLC, PROTECH
2003-D, LLC, CAPMARK FINANCE, INC.,
CAPMARK CAPITAL, INC. and PROTECH
HOLDINGS 128, LLC,

Counterclaim-Plaintiffs

- against -

CHORD ASSOCIATES LLC, BARBARA M.
SAEPIA, JOPAL ENTERPRISES LLC, JOPAL
ASSOCIATES, INC., and ROLAND CONDE,

Counterclaim-Defendants.

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A. KATHLEEN TOMLINSON, Magistrate Judge:

The Court has received a letter from Maureen Saepia on behalf of herself and her brother,
Richard Saepia, in response to the Court's Order of March 30, 2010 directing the Saepias to

ORDER

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present themselves for deposition by Defendants' counsel. *See* DE 169. Maureen Saepia states that both she and Richard Saepia appeared for their depositions on June 2, 2009 and that they were examined by Rachel Kramer, Esq., of the law firm of Foley & Lardner, counsel for the Defendants in this action. The Saepias are concerned that the Court was unaware of this information, and they are correct.

The Saepias were not required to notify the Court that they had been deposed. That was certainly not their responsibility and the Court extends its apology for directing these non-parties to comply with an Order which was completely unnecessary and for any inconvenience which the Order may have caused.

By copy of this Order, Defendants' counsel is directed to provide the Court with a written response no later than April 9, 2010 explaining (1) why counsel did not inform the Court, after the controversy arose on June 1, 2009 about the location of non-party depositions, that these two depositions had actually taken place on June 2, 2009; (2) why Defendants' counsel did not withdraw the pending motion to compel the Saepias' depositions as soon as those depositions were completed on June 2, 2009; and (3) why Defendants' counsel did not update the Court in this regard during any of the Court conferences held on June 8, 2009, June 19, 2009, July 7, 2009, October 16, 2009, or December 17, 2009.

A copy of this Order is being mailed to Maureen Saepia and Richard Saepia by the Clerk's Office.

SO ORDERED.

Dated: Central Islip, New York
April 6, 2010

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge